

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

05 CIV. 4412

ECF FILING

SANDRA STEENWERTH,

VAIL BUICK-PONTIAC-GMC INC.,

Plaintiff

Docket No.:
U.S. DISTRICT COURT
FILED

- against -

Defendant.

MAY 05 2005

W.P. S.D. OF N.Y.

COMPLAINT
PLAINTIFF DEMANDS
A JURY TRIAL

J. P. FILED
MAY 05 2005
S.D. OF N.Y.
W.P. S.D. OF N.Y.

ECF CASE

Plaintiff, **SANDRA STEENWERTH**, by her attorneys, **GOODSTEIN & WEST**, complaining of the defendant, alleges as follows:

1. This is an action for compensatory damages and punitive damages on behalf of plaintiff. This suit is authorized pursuant to Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et. seq.). Plaintiff also has a pendent state claim pursuant to the New York Human Rights Law (NYS Executive Law §290 et. seq.). Jurisdiction of this Court is invoked pursuant to 42 U.S.C. §2000e-5(f) and 28 U.S.C. §1343; 28 U.S.C. §§2201 and 2202, and under the Principle of Pendent Jurisdiction. Jurisdiction of this Court is invoked to secure protection of and redress deprivation of rights secured by Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et. seq.) providing for equitable and legal relief against sexual discrimination and retaliation in employment; and the New York State Human Rights Law (NYS Executive Law §290 et. seq.).

PARTIES

2. Plaintiff, **SANDRA STEENWERTH**, is a female who resides in Croton-on-Hudson, New York 10520. Plaintiff has filed charges with the Equal Employment Opportunity

Commission and has received a Notice of Right to Sue (copies of the charges of discrimination and Notice of Right to Sue are annexed as Exhibits 1 and 2 respectively).

3. This action has been brought within ninety (90) days of receipt of the Notice of Right to Sue regarding the initial complaint.

4. Defendant, **VAIL BUICK-PONTIAC-GMC INC.** (hereinafter "Vail"), is a corporation doing business in the State of New York, with an office located at 606 North Bedford Road, Bedford Hills, New York 10507, in the County of Westchester. Defendant is an employer as defined by Title VII of the Civil Rights Act of 1964. On information and belief, defendant has employed more than twenty (20) employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year.

FACTS

5. Plaintiff, **SANDRA STEENWERTH**, is a female and was employed by Defendant for approximately 11 years as the Office Manager for Defendant..

6. Plaintiff was repeatedly sexually harassed by a co-employee, Oswald Rossi on a daily nature. He made comments, touched Plaintiff's buttocks, tried to touch her breasts, threw tissues at her breasts, and engaged in other activities regarding sexual harassment including touching her hair, her shoulders, her legs, her back, etc.

7. On or about March 18, 2002 Plaintiff filed a formal Complaint regarding this activity with the Supervisor, Darrin Bohrman (a copy of this official Complaint written in Mr. Bohrman's own handwriting and signed by both he and Plaintiff is annexed to this Complaint as Exhibit 3).

8. Despite Plaintiff's official Complaint, Mr. Rossi did not stop his activities.

They continued from March 18, 2002 through October 6, 2004.

9. On October 6, 2004 Plaintiff was summoned to a meeting and told by Darrin Bohram "that he tried to keep the peace but it was not working and that my services were no longer needed."

10. Plaintiff also complained to Mr. Frank Castelli, General Manager, regarding Oswald Rossi's sexual harassment of Plaintiff as well as to Luke Corcione, the Business Manager. Nothing was done prior to Plaintiff's termination.

11. Plaintiff demands a trial by jury on all of her causes of actions.

AS AND FOR A FIRST CAUSE OF ACTION

12. Plaintiff, **SANDRA STEENWERTH**, was subjected to sexual discrimination and retaliation for exercising her rights and opposing discriminatory practices made unlawful by Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e *et. seq.*) in violation of Title VII of the Civil Rights Act of 1964.

PENDENT STATE CLAIMS

13. Defendant, **VAIL** is an employer as that term is defined by the New York State Human Rights Law (Executive Law §290 *et. seq.*).

14. Plaintiff, **SANDRA STEENWERTH**, was subjected to sexual discrimination and retaliation in consequence of her exercising her right under New York State law and opposing

discriminatory practices made unlawful by the Human Rights Law (NYS Executive Law §296 *et seq.*) in violation of the Human Rights Law.

WHEREFORE, plaintiff demands judgment against the defendant as follows:

On Plaintiff's First Cause of Action:

- i. An award of back pay including all raises, promotions and benefits;
- ii. The difference between plaintiff's current salary and benefits and those she should have been paid by defendant;
- iii. An award of compensatory damages and/or punitive damages pursuant to Title VII of the Civil Rights Act of 1964 in an amount permitted by law;
- iv. An award of reasonable attorney's fees pursuant to Title VII of the Civil Rights Act of 1964; and
- v. Costs and interest.

On Plaintiff's Pendent New York State Cause of Action:

- (i) An award of compensatory damages in the amount of Five Hundred Thousand Dollars (\$500,000.00); and
- (ii) Costs and interest;

together with such other and further relief as to this Court seems just and proper.

DATED: New Rochelle, New York
May 2, 2005

Yours, etc.,

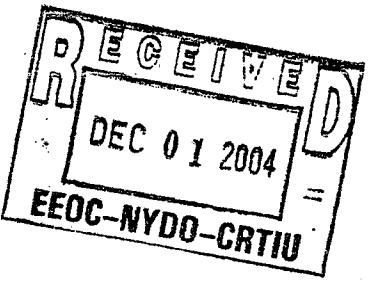
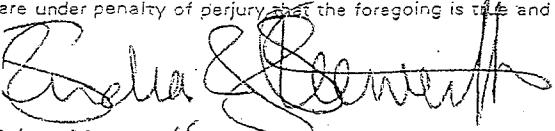
GOODSTEIN & WEST

BY:

ROBERT DAVID GOODSTEIN (RDG5443)
Attorneys for Plaintiff
56 Harrison Street, Suite 401
New Rochelle, New York 10801
(914)632-8382

TO: Vail Buick-Pointiac-GMC Inc.
606 North Bedford Road
Bedford Hills, New York 10507

EXHIBIT 1

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
and EEOC			
NAME (Indicate Mr., Ms., Mrs.) Ms. Sandra Steenwerth		HOME TELEPHONE (Include Area Code) (914) 271-0756	
STREET ADDRESS Croton-on-Hudson, New York 10520		CITY, STATE AND ZIP CODE	
DATE OF BIRTH			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME Vail Buick-Pontiac-GMC Inc.		NUMBER OF EMPLOYEES, MEMBERS 20	
TELEPHONE (Include Area Code) (914) 666-7537			
STREET ADDRESS 606 North Bedford Road, Bedford Hills, New York 10507		CITY, STATE AND ZIP CODE	
COUNTY Westchester			
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
COUNTY			
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify) ORIGIN		DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) LATEST (ALL) October 6, 2004 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
SEE ANNEXED			
			
KENNETH J. MASCALI Notary Public - State of New York No. 4603792 Qualified in Westchester County Commission Expires Feb. 28, 2006			
<u>STATE of New York County of Westchester</u> NOTARY (When necessary for State and Local Requirements) <u>Kenneth J. Mascali</u>			
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. <u>Kenneth J. Mascali</u>			
SIGNATURE OF COMPLAINANT <u>Sandra Steenwerth</u>			
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE 27 NOV 2004 (Day, month, and year)			
I declare under penalty of perjury that the foregoing is true and correct.			
 Date 11-27-2004			
Charging Party (Signature)			

SANDRA STEENWERTH
EEOC CHARGE OF DISCRIMINATION - PARTICULARS

1. I am a female who has been employed for approximately 11 years as the Office Manager for Respondent.
2. I have been repeatedly sexually harassed by a co-employee, Oswald Rossi on a daily nature. He made comments, touched my buttocks, tried to touch my breasts, threw tissues at my breasts, and engaged in other activities regarding sexual harassment including touching my hair, my shoulders, my legs, my back, etc.
3. On or about March 18, 2002 I filed a formal Complaint regarding this activity with the Supervisor, Darrin Bohrman (a copy of this official Complaint written in Mr. Bohrman's own handwriting and signed by both he and myself is annexed to this Complaint).
4. Despite my official Complaint Mr. Rossi did not stop his activities. They continued from March 18, 2002 through October 6, 2004.
5. On October 6, 2004 I was summoned to a meeting and told by Darrin Bohram "that he tried to keep the peace but it was not working and that my services were no longer needed."
6. I have also complained to Mr. Frank Castelli, General Manager, regarding Oswald Rossi's sexual harassment to me as well as to Luke Corcione, the Business Manager. Nothing was done prior to my termination.

EXHIBIT 2

196)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Ms. Sandra Steenwerth
Croton-on-Hudson, NY 10520

From Equal Employment Opportunity
Commission
New York District Office
33 Whitehall Street, 5th Floor
New York, New York 10004-2112

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
0 - 2005 - 00466	Legal Unit	(212)336-3625

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- We cannot investigate your charge because it was not filed within the time limit required by law.
- Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- While reasonable efforts were made to locate you, we were not able to do so.
- You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state) _____

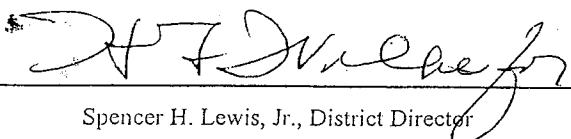
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of issuance and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA violation. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission



Spencer H. Lewis, Jr., District Director

2/28/05

(Date Mailed)

Signer(s)

Respondent(s): Vail Buick-Pontiac-GMC Inc. 606 N Bedford Rd., Bedford Hills, NY 10507
 Attn.: James E. McGrath, III
 Putney, Twombly, Hall & Hirson, LLP
 521 Fifth Avenue
 New York, New York 10175

EXHIBIT 3



BEDFORD HILLS BUICK-PONTIAC-GMC

606 N. Bedford Rd. P.O. Box 385
BEDFORD HILLS, NEW YORK 10507

(914) 666-7537

Fax No. (914) 666-7655



3/18/02

Official Complaint,

Sneaking up behind the ~~the~~ office manager,
Sandra Steenworth & touching (getting) her hair,
shoulder, less, back, & almost other places,
Regarding Salesman Oswald Rossi.

Dane Bohm

A handwritten signature in cursive script that appears to read "Dane Bohm".